



LEGISLATIVE COMMITTEE MEETING

APRIL 4, 2013

LEGISLATIVE COMMITTEE MEETING AGENDA



- Chapter 5 (Family Splits and Discussion of Roads)
- Creation of Board of Adjustment and Appeal
- Chapter 7 (Special Development Regulations)
- Chapter 8 (Stormwater)
- Chapter 10 (Floodplain)

FAMILY LAND SPLIT/DIVISION



Purpose: The Family Land Division will allow property owners to subdivide property for the purpose of gift or sale only to a legally defined family member.

Definition: Family land division is defined as the division of a lot into no more than ten (10) separate lots for the purpose of sale or as a gift to a member, or members, of the immediate family of the property owner.

One Time Division: Each family member is eligible to receive a lot using this process only one time. An immediate family member is defined as any person who is a natural or legally defined child, stepchild, grandchild, spouse, or parent of the property owner. Any subdivision external to the family or beyond the ten lots shall require entire project area to undergo a formal subdivision.

Not Intended For Investment or Circumventing Regulations: This division is NOT for the purpose of evading any part of the Benton County Subdivision Regulations and NOT for short-term investment or for resale after division to persons outside of the Grantor(s) immediate family.

FAMILY SUBDIVISION



Time Restrictions: The property owner is required to have owned the property for at least one (1) year prior to filing the Family Subdivision. A lot created through the Family Land Division process is not eligible for sale for at least two (2) years.

Certification: A Family Land Division affidavit must accompany the plat showing that the property is a family conveyance and a rider must be added to the deed. The affidavit must state that the division shall not include lots or parcels to be sold. If multiple lots are to be sold the property owners must apply for a subdivision permit and meet the designated requirements of the Benton County Subdivision Ordinance.

SUBDIVISION STREETS



- Legislative Committee Consideration of Subdivision Streets and Long-Term Maintenance
- Discussion of How to Address Subdivisions at the Committee of the Whole
- Key Issues Related to Streets:
 - Technical Specifications and Types of Streets
 - Maintenance for New Subdivisions
 - Maintenance for Existing Subdivisions

APPEALS BOARD



- **Why Establish an Appeals Board?**

- By far the most common way local government handles appeals
- Current system requires County Judge to appoint a three person panel for each appeal. This is an unnecessary burden on the Judge and the JP's.
- No specific procedural requirements, standards of evidence, or instructions regarding decision-making or conditions of approval.
- No consistency of appointees or personnel dedicated to role and this could have legal implications.
- There is currently no appeals board to hear building code appeals as the code calls for.
- Currently the Planning Board is designated to hear appeals on floodplain appeals.
- Each of these points suggests that it is time to consider a different model for appeals in Benton County.

APPEALS BOARD



- **Recommendation:** Create a five (5) member Board of Adjustment and Appeal that would be responsible for:
 - Appeals of administrative land use decisions and determinations
 - Appeals of Planning Board decisions
 - Appeals of Building Official determinations
 - Appeals of CFA floodplain determinations
 - Serve as final interpretive body of the regulations
 - Decide on variances to the regulations
 - Make use classification determinations

APPEALS BOARD



- **Members and Terms:** Five (5) members appointed to five (5) year terms plus alternates.
- **Appointment:** By Judge and confirmed by Quorum Court.
- **Compensation:** Recommend same \$100/mtg. plus mileage that Planning Board receives
- **Staffing/Support:** Planning and Environmental Services Department staff.
- **Procedures:** Procedures are established through adopted bylaws.

CHAPTER VII

SPECIAL DEVELOPMENT REGUALTIONS



- **§7.1 – MOBILE HOME PARKS**
- **§7.2 – TELECOMMUNICATION FACILITIES**
- **§7.3 – WIND ENERGY FACILITIES**
- **§7.4 – SIGNS**
- **§7.5 – TEMPORARY USES**
- **§7.6 – IN-HOME OCCUPATIONS**
- **§7.7 – AGRICULTURAL TOURISM OPERATIONS**

§7.1 – MOBILE HOME PARKS



- **Designed to give some structure and organization to mobile home communities**
- **Adds an explicit provision for maintenance of infrastructure and structures to prevent deterioration**
- **Little else modified in the existing provisions**

§7.2 – TELECOMMUNICATIONS



- **Much of the existing Chapter XX remains the same**
- **A key change involves removing the erection of new tower structures from administrative review**
- **Clarifies other administrative approvals**
- **Clarifies application process and review criteria for both administrative and public hearing**

§7.3 – WIND ENERGY FACILITIES



- **New provisions to primarily address utility scale wind energy generating facilities**
- **Exempts micro, roof mounted, and agricultural facilities**
- **Provides regulations for small (SWECS) and large (LUS) facilities**
- **Provides similar process to telecom review and approval including maintenance provisions**

§7.4 – SIGNS



- **No intention at this time to create any kind of sign ordinance. Very complex, time consuming, and sensitive**
- **Only purpose is to address a directive to establish a provision to ensure billboard or other large signs could not encroach into public way**

§7.5 – TEMPORARY USES



- **New section designed to address short-term or temporary uses that should have some review but fall well below site plan review threshold**
- **Establishes minor and major permit thresholds**
 - **Minor includes temporary vendors, food carts, some events**
 - **Major includes more impacting uses such as large events and structures**
- **Minor temporary uses reviewed administratively with short time frame**
- **Several categories such as commercial fireworks sales, explosive materials storage, special amusement operations, and tents/canopies were specifically requested by the Administrator or Public Safety. These provisions were provided and reviewed.**

CHAPTER VIII

STORMWATER POLLUTION PREVENTION, GRADING, AND EROSION CONTROL



A new chapter consistent with the previously approved Benton County Court Order **C-2009-80**

WHO?

Federal Level: EPA (U.S. CLEAN WATER ACT)

State Level: ADEQ (Arkansas Water and Air Pollution Control Act)

This is a **federal** mandate managed by the **state** and implemented at the **local** level

WHY?

To protect and enhance the water quality

HOW?

National Pollution Discharge Elimination System (NPDES)

CHAPTER VIII

STORMWATER POLLUTION PREVENTION, GRADING, AND EROSION CONTROL



National Pollution Discharge Elimination System- NPDES

INDIVIDUAL
NPDES
DISCHARGE
PERMIT

GENERAL NPDES
DISCHARGE PERMIT

- SW General Permits
 - Construction
 - Industrial

•**MS4**

•Non SW NPDES
General Permits

NO-
DISCHARGE
PERMIT

Wastewater
Treatment
Construction
Permit

MS4 is an acronym for Municipal Separate Storm Sewer System.

Benton County is a small MS4 under the phase II program in the Fayetteville-Springdale Urbanized area.

A small MS4 serves a population of less than 100,000 or certain regulated areas.

CHAPTER VIII

STORMWATER POLLUTION PREVENTION, GRADING, AND EROSION CONTROL



Agricultural, oil and gas, and silviculture activities are **exempt** from stormwater permitting.

The Court Order pertains to discharges from construction activities

- All Construction sites where construction on site will disturb soil or vegetation **one (1) acre** or more during the life of the project requires a SWPPP
- Requires a Stormwater Permit
- Requires a grading and drainage plan
- Erosion and Sediment Control guidelines- BMPs.

CHAPTER VIII

STORMWATER POLLUTION PREVENTION, GRADING, AND EROSION CONTROL



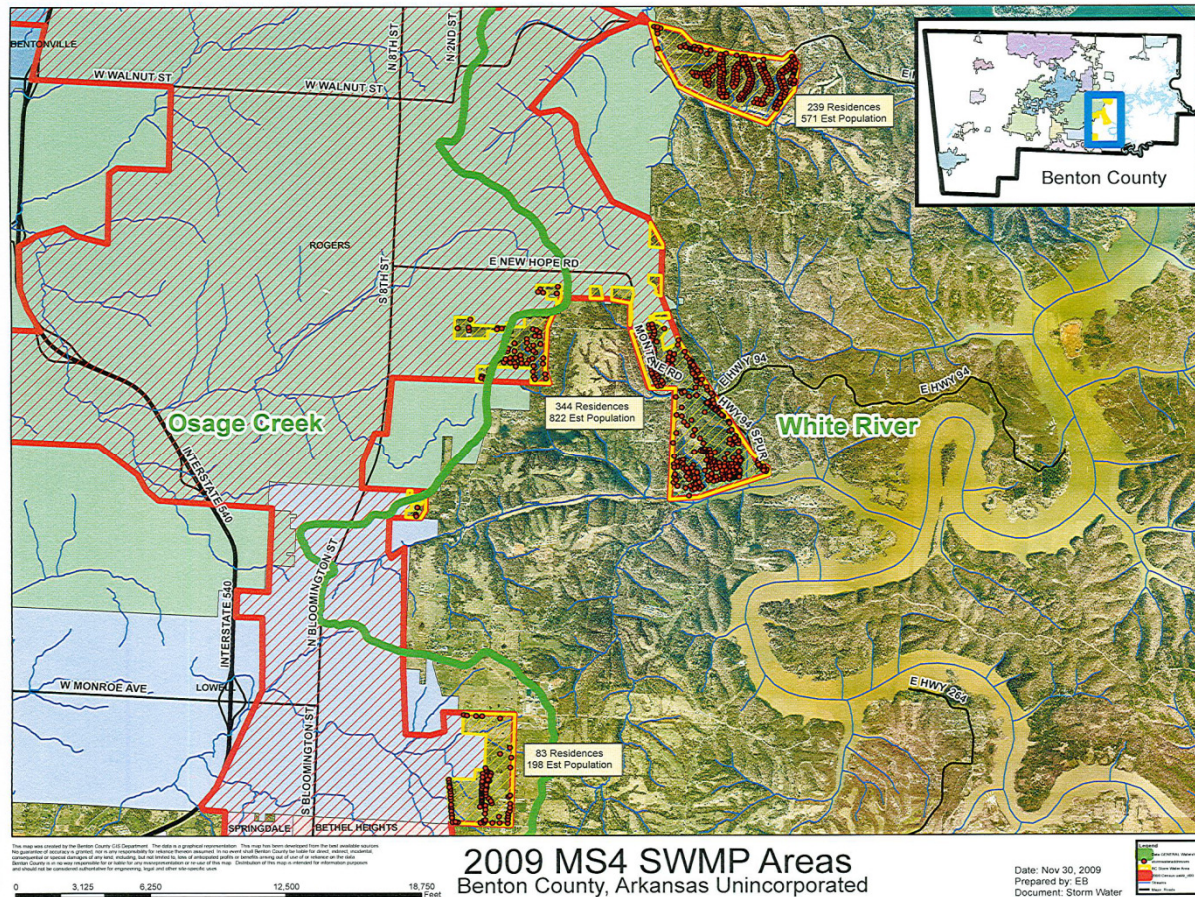
Where?

BENTON COUNTY MS4 (2000)

County Population: 62,615

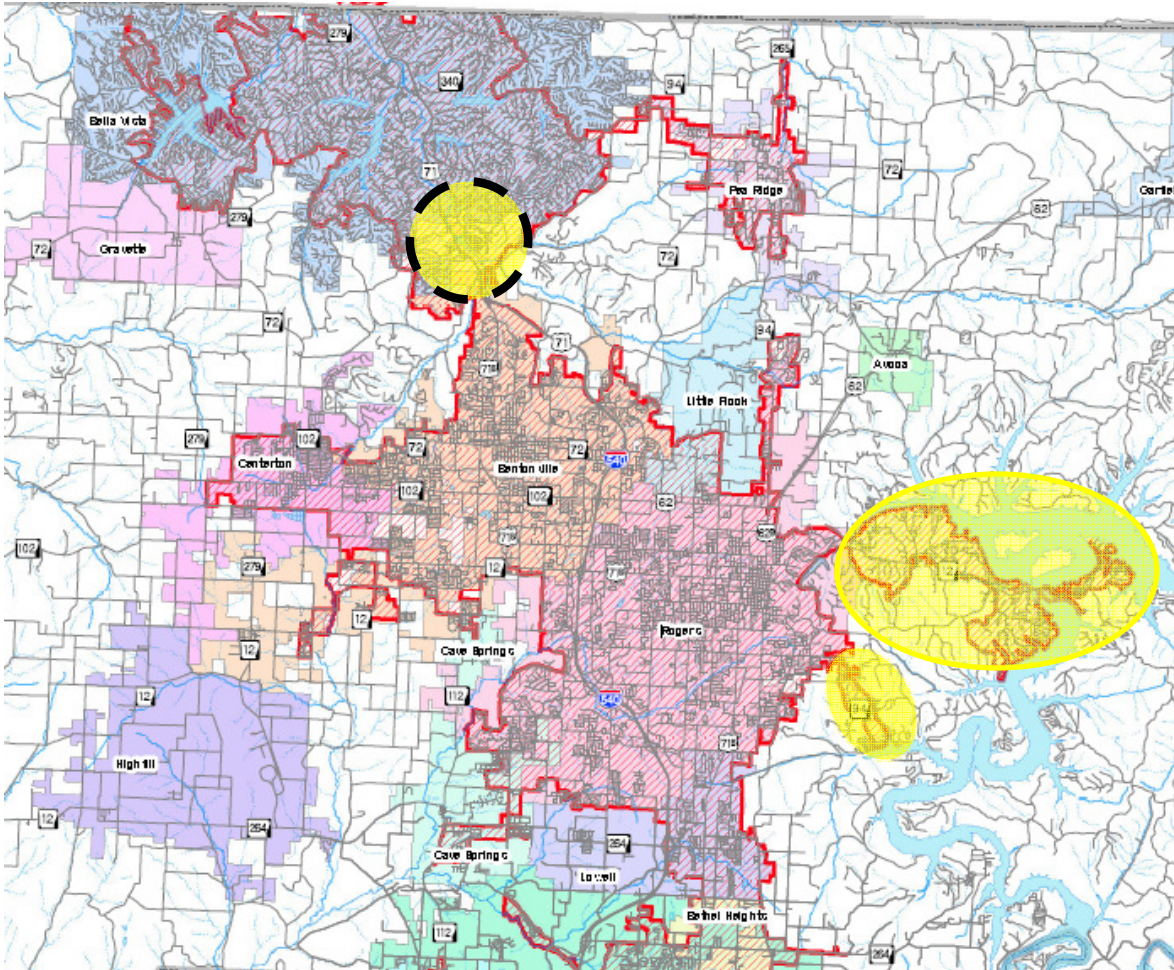
MS4 Population: 1889

MS4 Percent = 3.0%



CHAPTER VIII

STORMWATER POLLUTION PREVENTION, GRADING, AND EROSION CONTROL



Where?

BENTON COUNTY MS4 (2010)

County Population: 50,494

MS4 Population: 5339

MS4 Percent = 10.6%

CHAPTER X

FLOOD DAMAGE PROTECTION



The revised chapter is consistent with the existing Flood Damage Prevention Ordinance.

Who? Federal Level: FEMA (National Flood Insurance Act (1968),
Flood Disaster Protection Act (1973) & others
State Level: ANRC

Why? To prevent flood damages and manage floodplain development to address public health, safety, and welfare of citizens

How? National Flood Insurance Program- NFIP

CHAPTER X

FLOOD DAMAGE PROTECTION



Where? Applies to properties in the County located in a floodplain only as identified in the FIRM (Federal Insurance Rate Map) provided by FEMA.

When? The County has been a Class 8 community in the CRS (Community Rating System) since 1998 (see next slide).

What is required?

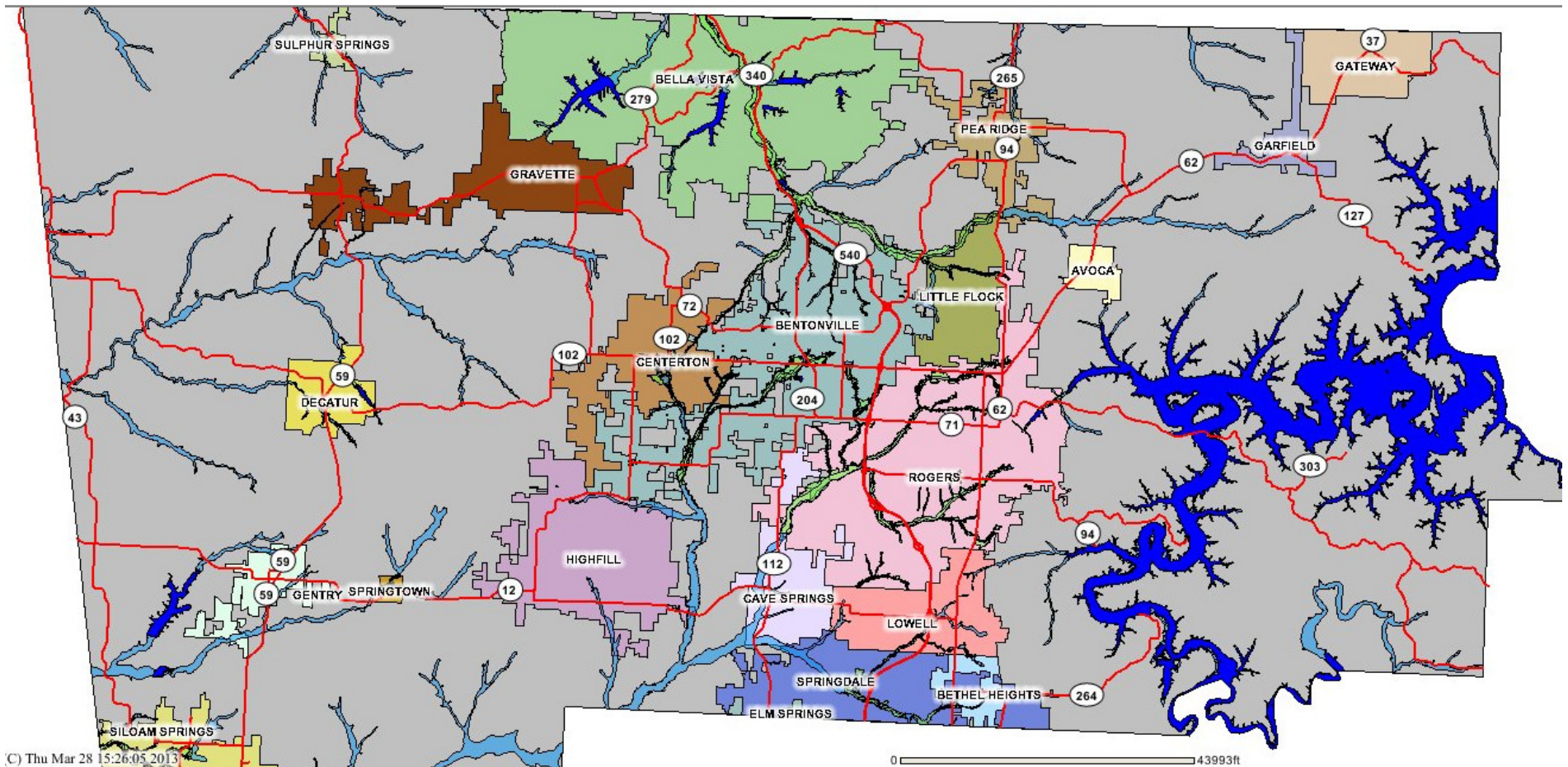
- Floodplain Development Permit
- Adherence to minimum standards for development. A foot above the BFE.

The table below shows the credit points earned, classification awarded, and premium reductions given for communities in the NFIP CRS.

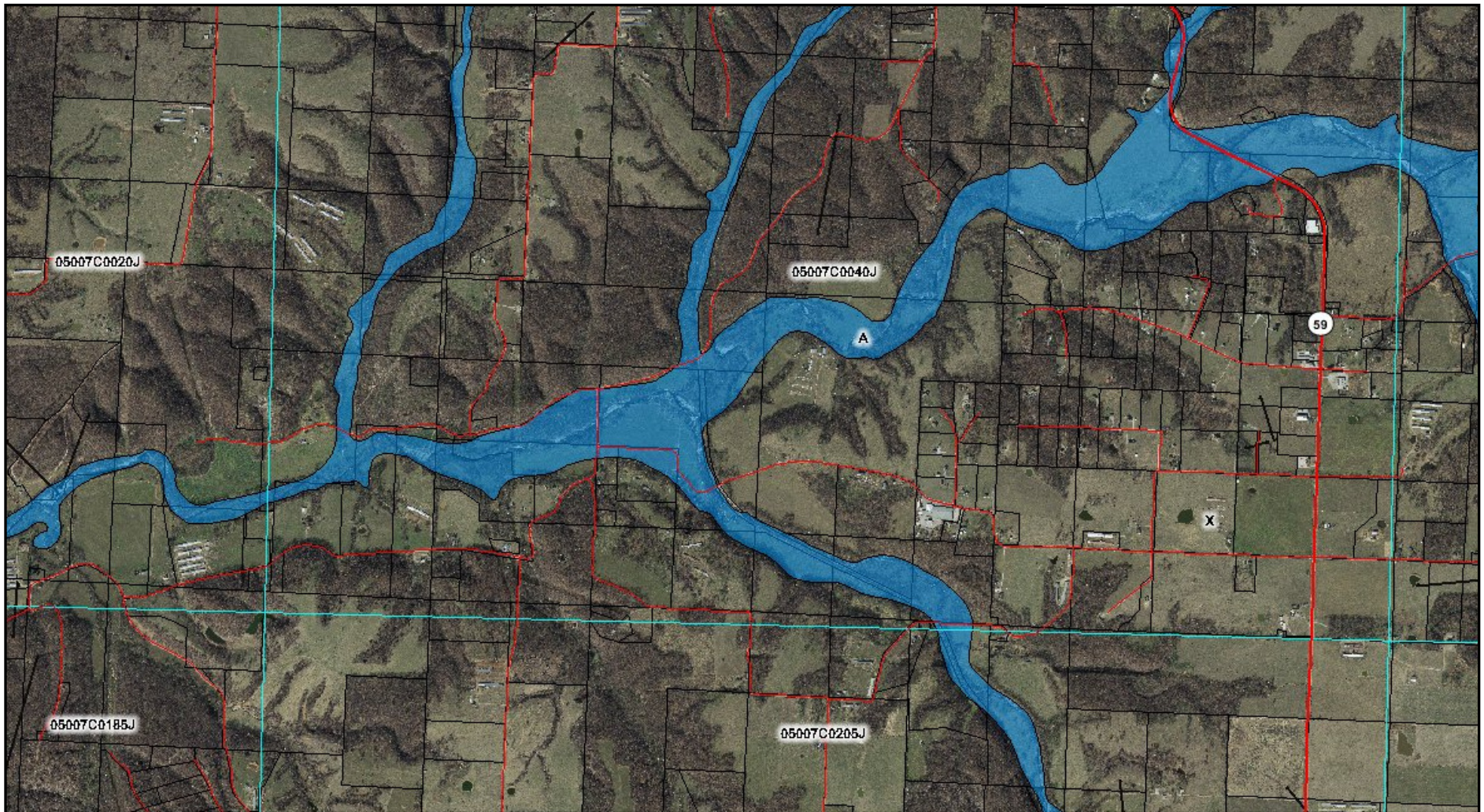
CREDIT POINTS	CLASS	PREMIUM REDUCTION SFHA*	PREMIUM REDUCTION NON-SFHA **
4,500+	1	45%	10%
4,000 – 4,499	2	40%	10%
3,500 – 3,999	3	35%	10%
3,000 – 3,499	4	30%	10%
2,500 – 2,999	5	25%	10%
2,000 – 2,499	6	20%	10%
1,500 – 1,999	7	15%	5%
1,000 – 1,499	8	10%	5%
500 – 999	9	5%	5%
0 – 499	10	0	0

*Special Flood Hazard Area

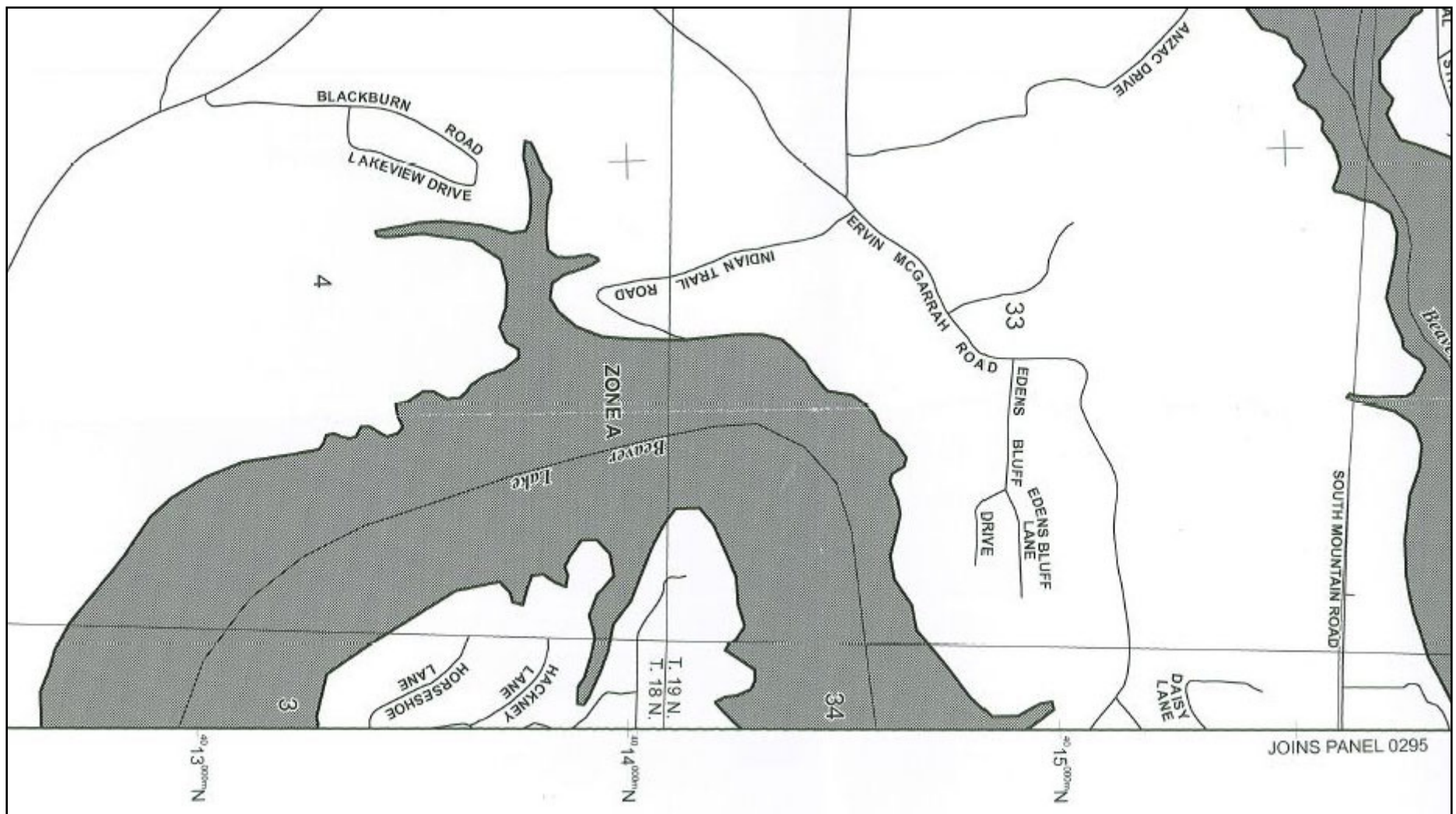
**Preferred Risk Policies are available only in B, C, and X Zones for properties that are shown to have a minimal risk of flood damage. The Preferred Risk Policy does not receive premium rate credits under the CRS because it already has a lower premium than other policies. The CRS credit for AR and A99 Zones are based on non-Special Flood Hazard Areas (non-SFHAs) (B, C, and X Zones). Credits are: classes 1-6, 10% and classes 7-9, 5%. Premium reductions are subject to change.



- Approximately 792 acres of unincorporated county land area are in a floodplain
- The County has issued floodplain development permits since program began in 1998



Snip from Benton County GIS showing 100 Year Floodplain, FIRM panels, and aerial coverage from 2012



Typical FIRM Map Panel - 2012